

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Improving Public Safety Communications |) | WT Docket No. 02-55 |
| in the 800 MHz Band |) | |
| |) | |
| Consolidating the 800 and 900 MHz |) | |
| Industrial/Land Transportation and |) | |
| Business Pool Channels |) | |
| |) | |
| Amendment of Part 2 of the Commission's |) | ET Docket No. 00-258 |
| Rules to Allocate Spectrum Below 3 GHz |) | |
| for Mobile and Fixed Services to Support |) | |
| the Introduction of New Advanced Wireless |) | |
| Services, including Third Generation |) | |
| Wireless Systems |) | |
| |) | |
| Amendment of Section 2.106 of the |) | ET Docket No. 95-18 |
| Commission's Rules to Allocate Spectrum |) | |
| at 2 GHz for use by the Mobile Satellite |) | |
| Service |) | |

**JOINT PETITION FOR WAIVER OF SPRINT NEXTEL CORPORATION, the
ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC. (MSTV), the
NATIONAL ASSOCIATION OF BROADCASTERS (NAB), and the SOCIETY OF
BROADCAST ENGINEERS (SBE)**

I. Introduction and Summary

Sprint Nextel Corporation (Sprint Nextel), the Association for Maximum Service Television, Inc. (MSTV), the National Association of Broadcasters (NAB), and the Society of Broadcast Engineers (SBE) (the "Joint Parties") request additional time to complete the transition of the broadcast auxiliary service (BAS) to frequencies above 2025 MHz. The Joint Parties have collectively spent hundreds of millions of dollars and tens of thousands of hours to anticipate, plan for and address the legal, technical, and logistical challenges inherent in the transition. Despite enormous effort to conclude the transition and substantial progress toward

completing the transition prior to September 2007, the Joint Parties respectfully submit this joint request for waiver of the completion date due to circumstances beyond their individual and collective control.¹

Retuning roughly one-thousand discrete BAS systems that have been assembled link-by-link over more than thirty years has proven far more complicated and time consuming than the Joint Parties or the Commission envisioned. Each BAS licensee generally operates a complex, integrated network of fixed and portable links scattered among a wide variety of different types of facilities and locations that licensees have assembled, piece-by-piece. These facilities vary greatly in location, use, accessibility, and upkeep, with many facilities having scores of delicately integrated transmitters, receivers, antennas, controllers, and related equipment. Some of this equipment is in near-constant use and requires special considerations to ensure continued operational readiness. Other equipment is thirty years old or older and can prove difficult to locate because it is used only occasionally or kept as a backup in a remote location. Because BAS provides the public with breaking news and essential real-time information during national, state, and local emergencies, unplanned service disruptions can have serious adverse consequences for local communities and their citizens.² Given the dynamic channel coordination among

¹ As the leading organizations engaged in the BAS transition, the Joint Parties presented the Commission with a comprehensive two-year progress report emphasizing the complex intertwined challenges BAS retuning poses for licensees, vendors, system integrators and Sprint Nextel. *See, e.g.,* Sprint Nextel, *BAS Relocation Status Report*, WT Docket No. 02-55 (Mar. 7, 2007) (Progress Report). The Joint Parties are continuing to work together to complete this important project.

² *See Waiver Requests by Clarity Media Systems, LLC To Operate CARS Stations at Flying J Travel Plazas*, DA 07-1946, 22 FCC Rcd. 8382, ¶ 13 (Media Bur., rel. May 3, 2007) (holding that BAS is “critical” to ensuring that the public “receive[s] breaking local news, including natural and unnatural disasters, and coverage of live events”); *see also, e.g.,* Department of Homeland Security, *Thirty Tips for Emergency Preparedness*, available at http://www.dhs.gov/xcitizens/editorial_0711.shtm (visited Aug. 16, 2007) (recommending,

multiple BAS licensees in a market, careful frequency and operational coordination is essential to preventing BAS service disruptions which can compromise homeland security and national emergency preparedness.

In recent months, communities in the United States have experienced an interstate highway bridge collapse, a mine cave-in, extensive flooding in multiple states, tornadoes, renewed terrorism alerts and record heat waves. In every case, electronic newsgathering has served as a primary means of communicating up-to-date emergency information to the public. The Commission has long recognized the importance of reliable television broadcasting and video electronic newsgathering services as part of the mix of the homeland security communications channels critical to future preparedness and emergency response.³

Accordingly, the Joint Parties seek additional time to complete relocating BAS operations from their current channel assignments to the Commission's revised BAS band plan. Waiver of the existing September 7, 2007 BAS transition completion date will preserve the availability of high-quality, interference-free video for important news, weather, and sporting events around the country while furthering the Commission's public interest objective of freeing the 1990-2025 MHz

among other things, that citizens watch television for official news and information concerning emergencies).

³ See Network Reliability and Interoperability Council VII, *Analysis of the Effectiveness of Best Practices Aimed at E9-1-1 and Public Safety*, Final Report, 35 (Dec. 2005), available at <http://www.nric.org/fg/index.html> (noting that when E911 outages occur, broadcast media play an important role in public efficient and timely notification by "by turning events into 'breaking news' thus widely spreading the information" and adding that "alerting the media to a given situation creates additional opportunities for expanding notification via interrupted programming and/or live interviews by leveraging the media's interest in informing the public of the situation and steps the public should be taking."); see also, e.g., Network Reliability and Interoperability Council VI, *Homeland Security and Public Safety* (Focus Group 1C), Final Draft Report, 29 (March, 2003), available at <http://www.nric.org/fg/nricvifg.html> ("Media organizations can alert the public during periods of emergency network degradation or outage").

spectrum block for advanced wireless and mobile satellite services. The Joint Parties have invested heavily in anticipating and solving potential problems at the outset and are now making rapid progress. The Commission can assure that these substantial up-front investments in equipment, processes, and personnel produce their intended benefits by granting additional time to complete the BAS transition.

The successful relocation of thousands of BAS transmitters and receivers will require all parties to continue finalizing deal packages, signing contracts, ordering, installing and testing equipment, and coordinating market switchover. The Joint Parties emphasize that this waiver request is in no way intended to excuse any stakeholder from diligently meeting these requirements. On the contrary, the Joint Parties have strong business incentives to complete the BAS transition as quickly as possible. For Sprint Nextel, completing the BAS transition will allow it to access 1.9 GHz spectrum resources.⁴ For the broadcast community, the 2009 digital television transition has begun to place a premium on deploying the high-quality, digital electronic newsgathering equipment that they are receiving in the BAS transition. In short, the Joint Parties have every incentive to ensure that progress continues until the job is done. Moreover, the Joint Parties recognize the interference complexities involved with sharing these channels with new mobile satellite entrants. The facts, however, indicate that responsibly completing the BAS relocation throughout the nation will require an additional twenty-nine months beyond the current transition completion date.

II. Discussion

⁴ *800 MHz Order*, 19 FCC Rcd. at ¶ 222 (providing Sprint Nextel “timely and certain access to 1.9 GHz spectrum rights in exchange for vacating certain 800 MHz spectrum and assuming the cost of 800 MHz band reconfiguration”).

A. The Joint Parties Have Made Significant Progress in Transitioning the BAS Band.

Working with hundreds of companies, including BAS equipment vendors, integrators, tower climbers, contractors, and satellite operators, the Joint Parties have made significant progress in transitioning BAS licensees to the new 2 GHz band plan. For example, Sprint Nextel has spent more than \$266 million to purchase and assure early availability of an inventory of more than 16,000 items of BAS equipment, including more than 9,000 transmitters and receivers, more than 4,900 controllers, and nearly 2,000 antennas and antenna upgrades. The relevant parties have reached agreement on 100 percent of the nation's inventory of BAS station facilities and equipment, and 59 percent of the nation's primary BAS licensees have finalized and received approval of detailed supply and pricing plans for new equipment.⁵

Moreover, since the Joint Parties last updated the Commission on the BAS transition less than six months ago, the pace of the BAS transition has steadily improved. As noted above, early investments in the BAS relocation process, such as developing template agreements, pre-stocking inventory, staging systems integration prior to installation, and encouraging manufacturers and integrators to add staff to meet anticipated demand, have begun to show rewards as demonstrated by the steadily increasing pace of BAS activities. For instance, in the less than six

⁵ Under the *800 MHz Order*, Sprint Nextel is entitled to credit its BAS relocation expenditures against its potential obligation to the U.S. Treasury. *See Improving Public Safety Communications in the 800 MHz Band*, Second Memorandum Opinion and Order, WT Docket 02-55, 22 FCC Rcd. 10467, ¶ 50 & n.117 (2007) (*800 MHz Second MO&O*), *citing 800 MHz Order*, 19 FCC Rcd. at ¶ 330. The Commission has aptly described this arrangement as “in essence result[ing] in the U.S. taxpayer paying” BAS relocation-related expenses. *Id.* In its role as essentially a steward of taxpayer funds, and in accordance with its corporate fiduciary responsibilities, Sprint Nextel has an obligation to review, validate, and approve BAS inventory claims as well as to review, validate, and agree on pricing and retuning plans through well-defined frequency relocation agreements (FRAs).

months since the two-year annual report, finalized inventories increased by 21%, approved quote packages increased by 97%, and signed relocation agreements jumped by 105%. Purchase order submission, fulfillment, and installation also show marked gains in excess of 100%.⁶

| Phase* | Mar. 2007 | Aug. 2007 | Percentage Increase Since Mar. 2007 |
|---|-----------|-----------|-------------------------------------|
| 1a. Markets Kicked Off by Sprint Nextel | 100% | 100% | <i>Complete</i> |
| 1b. BAS Stations Engaged in Transition | 100% | 100% | <i>Complete</i> |
| 2. Inventories Submitted by Broadcasters | 99% | 100% | <i>Complete</i> |
| 3. Inventories Verified and Agreed by Sprint Nextel | 80% | 97% | +21% |
| 4. Quote Packages Submitted by Broadcasters | 37% | 63% | +70% |
| 5a. Quote Packages Approved by Sprint Nextel | 30% | 59% | +97% |
| 5b. Frequency Relocation Agreements Signed | 22% | 45% | +105% |
| 6a. Purchase Orders Submitted by Broadcasters | 17% | 39% | +129% |
| 6b. Purchase Orders Fulfilled by Manufacturers | 5% | 13% | +160% |
| 7. Equipment Installed by Installers | 2% | 5% | +150% |

* Figures exclude Guam and the U.S. Virgin Islands and secondary BAS facilities; percentages are rounded to the nearest whole number.

B. The Joint Parties Have Faced Unanticipated Complexity and Unforeseen Challenges Beyond the Control of Any Party.

⁶ The Commission recently held that permitting the relocation of secondary BAS stations would “help[] to ensure that the BAS relocation proceeds in a timely fashion with minimal disruption to BAS operations.” *800 MHz Second MO&O*, 22 FCC Rcd. at ¶ 63. In another sign of progress toward complete relocation of the BAS incumbent operations to spectrum above 2025 MHz, Sprint Nextel and the broadcast community have agreed that Sprint Nextel will voluntarily reimburse secondary station licenses, including low power television stations, television translators and stations operating under the so-called 720-hour rule, provided that the licensees establish their eligibility and comply with a series of intermediate milestones designed to promote swift transition to the new BAS band plan. *See Sprint Nextel Corporation and Association for Maximum Service Television, Inc., Sprint Nextel and MSTV Agree on Funding for Relocation of Secondary BAS Stations*, Press Release (Aug. 1, 2007), available at <http://www.2ghzrelocation.com/plugin/template/broadcast/593/1631>.

As explained in the March 2007 BAS progress report, the BAS relocation project – which involves thousands of discrete networks that can cross multiple geographic areas, tens of thousands of pieces of costly fixed and mobile equipment, and hundreds of millions of dollars – has proven far more complex than originally anticipated. The Progress Report explained in detail the good faith efforts that major stakeholders have made to overcome these initial complications and described the challenges that remain. The Progress Report also provided evidence and supporting declarations that demonstrate why additional time is necessary to complete BAS relocation consistent with the Commission’s objective of minimizing disruption to broadcasters’ electronic newsgathering operations.

When the Commission directed Sprint Nextel to conclude the BAS transition by September 7, 2007,⁷ it noted that factors beyond a party’s reasonable control could result in BAS relocation taking longer than anticipated.⁸ Unfortunately, circumstances beyond Sprint Nextel’s control as well as beyond the control of any

⁷ In the *800 MHz Order*, the Commission required Sprint Nextel to relocate all eligible BAS licensees to the new BAS band plan at 2025-2110 MHz within 30 months after the effective date of the *800 MHz Order*. *Improving Public Safety Communications in the 800 MHz Band; Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd. 14969, ¶¶ 252, 352 (2004) (*800 MHz Order*), as amended by Erratum, WT Docket No. 02-55 (rel. Sep. 10, 2004); Second Erratum, 19 FCC Rcd. 19651 (2004). BAS spectrum in the 2 GHz band is also authorized for use by the Cable Television Relay Service (CARS) and the Local Television Transmission Service (LTTS). This filing refers to BAS, CARS, and LTTS collectively as “BAS.” The Commission subsequently extended various benchmarks in the *800 MHz Order* by 45 days, including its BAS relocation benchmark. Public Notice, “Commission Seeks Comment on *Ex Parte* Presentations and Extends Certain Deadlines Regarding the 800 MHz Public Safety Interference Proceeding,” 19 FCC Rcd. 21492 (2004).

⁸ *800 MHz Order*, 19 FCC Rcd. at ¶ 352 (stating that Commission would consider sanctions only where “Nextel fails to meet [the] benchmark ... for reasons that Nextel could reasonably have avoided”).

BAS licensee or stakeholder have delayed the process in ways that could not have been reasonably anticipated or overcome.

Because this relocation process is part of a much larger spectrum realignment plan, it has been subject to a very high level of federal oversight. While the Joint Parties are not objecting to the level of review, it has required the enactment of detailed procedures that have traditionally not been part of other relocation efforts. As a result, a significant amount of time involved in this process has been used to properly document every step of the process to meet reimbursement policies established by the Commission and the Transition Administrator. Delays relating to this process could not have been avoided.

The Joint Parties have encountered unexpected complexities in almost every aspect of BAS relocation. At the outset, the parties needed time to develop and refine processes, controls, and safeguards sufficient to meet the documentation requirements imposed upon them and accomplish the task of relocating the electronic newsgathering operations. The parties also had to dedicate substantial resources to inventory equipment because the large, embedded base of BAS facilities vary greatly in location, use, accessibility, and upkeep. In addition, the parties must schedule the inventory process to avoid disrupting each station's electronic newsgathering operations.⁹ Once a station completes its inventory, Sprint Nextel and the BAS licensee must then must consult with manufacturers and other vendors regarding how best to replace the station's equipment and redesign the licensee's particular BAS system to operate on the new band plan.¹⁰ Each station's custom BAS system presents its own unique design challenges and can require weeks or

⁹ See Progress Report at 8-9.

¹⁰ *Id.* at 8-9.

even months to address these issues and negotiate a frequency relocation agreement (FRA). The parties often must subsequently amend these agreements to reflect new information or developments, such as a belated discovery of a piece of costly equipment.¹¹ Replicating the capabilities of a complex BAS system from scratch poses challenges for everyone involved. The Joint Parties experience to date demonstrates that the more complex the system, the greater the likelihood of multiple bid revisions, each of which requires incumbents and manufacturers to exchange information about the unique system designs and capabilities each manufacturer offers.

The parties also confronted unanticipated regulatory and commercial issues in negotiating FRAs.¹² An important consideration was to conform the agreements to policies being developed by the Transition Administrator. During the first year of BAS relocation, many of the approaches to relocation originally agreed to by the parties were revised. Both Sprint Nextel and broadcast parties had to resolve respective tax issues, necessitating decisions by the Department of Treasury and Internal Revenue Service. For example, a number of broadcast parties raised concerns about potential income or property tax liability broadcasters might incur as a result of receiving new digital BAS equipment.¹³ The Joint Parties worked together to resolve these concerns at the Internal Revenue Service to ensure that the transition would proceed without disruption.¹⁴

¹¹ *Id.* at 12-13.

¹² *Id.* at 11-12; March 2006 Status Report at 5-7.

¹³ *See* Letter from Regina Keeney, Counsel to Sprint Nextel, to Marlene Dortch, FCC Secretary (March 22, 2006).

¹⁴ Broadcast parties filed a petition with the IRS for an expedited private letter ruling that stations would not owe taxes on replacement BAS equipment. Sprint Nextel supported the request for a ruling, and on July 28, 2006, the IRS issued the ruling (No. 2006-44019),

The Joint Parties also dedicated considerable time early in the process to developing a model FRA for use as a starting point for individual licensee negotiations; the benefits of this extensive preparatory effort are increasingly being realized now with licensee inventories completed, many equipment bids resolved and licensees executing FRAs.¹⁵ In addition, as the Joint Parties and individual licensees gained experience with the diversity of BAS architectures, Sprint Nextel has added staff, pre-stocked million of dollars of inventory, pre-staged installations offsite and improved its organizational structure to improve the efficiency of the process and accelerate the pace of executing FRAs. Thus, the time spent developing a model FRA is paying dividends in simplifying and expediting FRA negotiations, just as the parties' experiences have enabled them to improve the negotiating and fulfillment processes.

The Joint Parties have also had to confront a variety of implementation challenges after executing FRAs.¹⁶ No one manufacturer makes all the equipment for a typical BAS installation. Instead, the parties must coordinate the manufacturing schedules of multiple vendors – each of which faces its own supply

determining that the property exchange mandated by the BAS relocation was an involuntary conversion and therefore would not result in the recognition of any income or gain.

¹⁵ Following execution of the FRA, Sprint Nextel's role in the BAS relocation process is to coordinate schedules, pay invoices, process change orders and amendments to contracts, work with the manufacturers to monitor pre-stock inventory and to ensure more inventory is available as necessary to support BAS retuning. Sprint Nextel remains deeply enmeshed in day-to-day project oversight and continues to work closely with scores of vendors and suppliers to accelerate the transition through face-to-face meetings, on-site visits and other contacts on daily basis; however, Sprint Nextel has a limited ability to actually drive the pace of market transition once it executes an FRA with an incumbent. After that point, the transition depends principally upon the ability of a large number of third-party manufacturers, integrators, programmers, and installers to collectively meet the precise and necessarily demanding fulfillment, installation, and performance requirements for BAS equipment.

¹⁶ Progress Report at 14.

chain and implementation challenges – and then “integrate” or pre-assemble the end-to-end BAS system on the factory floor prior to actual installation. The BAS equipment, much of which is custom made for a particular broadcaster, requires extensive interoperability and compatibility testing prior to installation and demands specialized, custom-made software to remotely control cameras, radios, and other equipment under the less-than-ideal conditions that reporters and technicians will encounter in the field. Only after the equipment is available, integrated, tested, and operational in a vendor’s warehouse can the installers who possess specialized training to work on high towers or other inaccessible areas replace existing BAS equipment. Qualified equipment installers are in short supply, especially given the competing demands that the digital television conversion of a licensee’s main broadcast facilities imposes on their time.¹⁷

The installers must also schedule their work to avoid disrupting the licensee’s electronic newsgathering operations. For example, installations cannot take place during broadcasters’ “sweeps” periods, elections, major news and sporting events, and on holidays.¹⁸ These scheduling challenges take time to resolve and, in 2008, the presidential primaries and national elections will place further constraints on available BAS installation windows. Moreover, bad weather, zoning disputes, accessibility concerns, and other factors can exacerbate these scheduling challenges,

¹⁷ See 47 U.S.C. § 309(j)(14)(A), as amended by § 3006(a) of the Digital Television Transition and Public Safety Act of 2005, Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) (establishing February 17, 2009 as the “hard date” for the digital television transition).

¹⁸ Ratings services simultaneously measure local television markets in November, February, May and July. These months are called “sweeps” periods, and local television and cable systems use this data to set advertising rates and to make programming decisions. See, e.g., Nielson Media Research, *FAQs – About the Sweeps*, (last visited Aug. 21, 2007), available at <http://www.nielsenmedia.com/FAQ/sweeps.html>.

disrupt even the best market cut-over plans, and cause unanticipated implementation delays.

Even after completing all of the earlier phases, a BAS licensee cannot transition to the new 2 GHz band plan until the vast majority of other BAS licensees in its market are ready to do so. Licensees within a market share BAS channels, and the Commission has recognized that “the integrated nature of BAS operations . . . makes isolated, link-by-link relocation infeasible.”¹⁹ As a result, broadcasters in a market can relocate to the new band plan only after nearly all of them in that market have entered into FRAs, purchased, installed and tested the new equipment and control systems, and have coordinated a simultaneous transition to the new band plan.²⁰ In addition, in many markets the parties must coordinate relocation with adjacent markets because of inter-market resource sharing and interference concerns – all while guarding against unanticipated interruptions to the delivery of breaking local, state, and national news events. Taken together, the BAS transition project poses many challenges to timely completion even under the best of circumstances.

C. Unanticipated Complexity and Obstacles Beyond the Control of the Joint Parties Warrant Additional Time to Conclude the BAS Relocation.

In the face of numerous unanticipated challenges, the broadcast community, BAS equipment manufacturers, systems integrators, software programmers, installers, and Sprint Nextel, require additional time to complete the BAS

¹⁹ *800 MHz Order*, 19 FCC Red. at ¶ 256.

²⁰ Prior to this coordinated, market-wide switch to the new band plan, BAS licensees will follow a “narrow-in-place” protocol: each user on its own schedule will deploy new equipment that enables operation on 12 MHz channels, while continuing to operate on the existing channel center frequencies until all licensees in the market are ready to switch to the new band plan.

transition. The Commission’s rules allow for waivers when the “the underlying purpose of the rule would not be served . . . by application to the instant case” or when “unique or unusual factual circumstances” would render application of the rule “inequitable, unduly burdensome or contrary to the public interest.”²¹ Waivers provide a “safety valve” that allow an agency to “take into account considerations of hardship, equity, or more effective implementation of overall policy.”²²

In this case, the Joint Parties have had to confront unusual facts unique to the 2 GHz BAS transition. Every stage of the transition – from inventory, to competitive bidding, to contracting, to provisioning, to training, to programming, to installation and reconfiguration – has entailed challenges that no one could have reasonably foreseen at the time the original order was adopted. The Progress Report described many of the most important factors causing delay in considerable detail, including the need for in-depth consultations with vendors and manufacturers over how best to design and replace highly specialized or custom-made equipment. The Progress Report also described the complex negotiations to reach agreements that account for all installations and expenses consistent with Sprint Nextel’s role as a steward of funds dedicated to the U.S. Treasury and the need to exclude unwarranted upgrades to BAS equipment, which the Treasury will not fund. As described in the March 2007 Progress Report, the Joint Parties and the broadcast licensee community have worked diligently and in good faith to overcome these challenges.

Under the circumstances, mechanical application of the current completion date would prove inequitable to Sprint Nextel, which has dedicated hundreds of

²¹ 47 C.F.R. § 1.925(b)(3).

²² *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

millions of dollars and thousands of hours to a project that has frustrated other licensees in the past, and unduly burdensome to the broadcast community, which requires alternative spectrum to ensure interference-free operations of vital electronic newsgathering services.²³ Granting a limited, twenty-nine month waiver of the BAS relocation completion date would promote the public interest in freeing additional spectrum for advanced wireless services and preserving high-quality, interference-free video for important news, weather, and sporting events around the country.²⁴

In adopting the BAS transition, a “primary goal” was to “ensure that the BAS transition causes the minimum possible disruption to BAS operations.”²⁵ Awarding an additional twenty-nine months for Sprint Nextel and the BAS licensees to overcome the unanticipated obstacles and complexities they have faced will not only provide for the most expeditious relocation of the BAS licensees possible, but also

²³ Prior to adoption of the *800 MHz Order*, the Commission established a plan for licensees of the 2 GHz mobile-satellite service to relocate the BAS incumbents. *See Amendment of Section 2.106 of the Commission’s Rules to Allocate Spectrum at 2 GHz for use by the Mobile-Satellite Service*, Second Report and Order and Second Memorandum Opinion and Order, 15 FCC Rcd 12315, ¶¶ 27-35 (2000). The *800 MHz Order* amended the MSS relocation rules “to allow either MSS entrants or Sprint to relocate BAS incumbents.” *Second MO&O*, 22 FCC Rcd. at ¶ 56, n.137, *citing 800 MHz Order*, 19 FCC Rcd. at ¶ 269

²⁴ The Joint Parties will continue to exercise their best efforts to complete the transition as expeditiously as possible and will continue to take all reasonably practicable steps to ensure that manufacturers, integrators, programmers, tower climbers, installers and other essential parties perform their functions with similar diligence.

²⁵ *Amendment of Section 2.106 of the Commission’s Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service*, Second Report and Order and Second Memorandum Opinion and Order, 15 FCC Rcd. 12315, ¶ 42 (2000) (*Second MSS R&O*); *see also 800 MHz R&O* ¶ 250 (“[W]e expect that Nextel and MSS licensees will work together to minimize the disruption BAS licensees will experience in the transition.”). Chairman Dingell and Congressman Upton have also emphasized that the Commission’s BAS relocation procedures “should not jeopardize the ability of local stations to fulfill their primary role – to provide live local coverage of news events.” *See Letter from Honorable Fred Upton and Honorable John D. Dingell to FCC Chairman Powell*, at 3 (March 23, 2004).

ensure that viewers around the nation can continue to receive important local news, weather and sports reports from the field.

III. Conclusion

Despite vigorous, sustained and costly efforts, Sprint Nextel, MSTV, NAB, and SBE have found that inventorying, selecting, pricing, delivering, integrating, and installing replacements for thirty years' worth of broadcast equipment for roughly one thousand broadcasters will require more than thirty-one-and-a-half months. Sprint Nextel, MSTV, NAB, and SBE, therefore, jointly request that the Commission waive the current BAS transition completion date for an additional twenty-nine months. All parties have a strong incentive to conclude the BAS transition process as quickly as possible. Awarding a limited extension will

provide Sprint Nextel and the broadcast industry sufficient time to complete the intricate task of transitioning BAS incumbents to the new 2 GHz band plan without compromising important broadcast operations.

Respectfully submitted,

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